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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,113	03/11/2008	Anthony J. Khouri	061300-1011	7839
26371	7590	07/14/2011		
FOLEY & LARDNER LLP				
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MILWAUKEE, WI 53202-5306				
EXAMINER				
PRAKASH, GAUTAM				
ART UNIT		PAPER NUMBER		
1775				
MAIL DATE		DELIVERY MODE		
07/14/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/591,113

Applicant(s)

KHOURI ET AL.

Examiner

GAUTAM PRAKASH

Art Unit

1775

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) 33 and 35-57 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32, 34 and 58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date See Continuation Sheet
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :31 August 2006, 31 March 2008, 19 January 2010, and 20 January 2011.

DETAILED ACTION

Information Disclosure Statement

1. The examiner has considered the Information Disclosure Statements (IDS) filed on 31 August 2006, 31 March 2009, and 19 January 2010.

2. The IDS filed on 20 January 2011 fails to comply with the provisions of 37 C.F.R. §§ 1.97 and 1.98 and M.P.E.P. § 609. Specifically, the IDS submitted did not contain information in English for the following non-English references: DE 85 01 010.3, DE 956 378, JP 2001-79418, SU 421520, SU 977188, and SU 1796533. The following must be provided for non-English documents that are cited:

- (a) A concise explanation of the relevance, as it is presently understood by the individual designated in 37 C.F.R. § 1.56(c) most knowledgeable about the content of the information, unless a complete translation is provided; and/or
- (b) A written English language translation of a non-English language document, or portion thereof, if it is within the possession, custody or control of, or is readily available to any individual designated in 37 C.F.R. § 1.56(c).

M.P.E.P. § 609.01.

3. These non-English references have been placed in the application file, but the examiner has not considered the information referred to therein as to the merits. The examiner has, however, considered the references that comply with the provisions of 37 C.F.R. §§ 1.97 and 1.98 and M.P.E.P. § 609.

4. Copies of portions of the IDSs listing the references are being returned to Applicant along with this Office action and serve both as acknowledgement of receipt of the IDSs and as an

indication as to which references the examiner considered. Applicant is advised that the date of any re-submission of any item of information contained in any of the IDSs or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 C.F.R. § 1.97(e). *See*, M.P.E.P. § 609.05(a).

Election/Restriction

5. Applicant's election without traverse of Group I, claims 1 to 32, 34, and 58, in the reply filed 21 June 2011 is acknowledged. Accordingly, claims 1 to 32, 34, and 58 are examined and claims 33 and 35 to 57 are withdrawn from further consideration pursuant to 37 C.F.R. § 1.142(b) as being drawn to a non-elected invention. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(i).

Claim Objections

6. Claim 2 is objected to because of the following informalities: "polymeric" should read "polymer". Appropriate correction is required.

Claim Rejections - 35 U.S.C. § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 2, 7, 34, and 58 are rejected under 35 U.S.C. § 102(b) as being anticipated by Smith *et al.* (U.S. Pat. Appl. Pub. No. 2002/0071336).

9. Smith *et al.* teach a rotary concrete mixing drum with an interior surface coating comprising polyurethane and polytetrafluoroethylene (Smith *et al.* at paragraph [0006]).

Claim Rejections - 35 U.S.C. § 103

10. The following is a quotation of 35 U.S.C. § 103(a) that forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 3 to 6, 8 to 16, and 27 to 32 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith *et al.* (U.S. Pat. Appl. Pub. No. 2002/0071336), as applied to claims 1, 2, 7, 34, and 58 *supra*.

12. Regarding claims 3 to 6, 8 to 16, and 27 to 29, it is well within the abilities of one of ordinary skill in the art to use other commonly known polymers (such as polydecene and polyalpha olefin fluid) and vary the amounts and properties of the polymers according to design needs.

13. Regarding claims 30 to 32, Smith *et al.* teach that the interior of the drum may contain fins, which meet the claimed limitation of inwardly extending projections. The fins may also be coated (Smith *et al.* at paragraph [0030] and claim 11).

14. Claims 17 to 26 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith *et al.* (U.S. Pat. Appl. Pub. No. 2002/0071336), as applied to claims 1 to 16, 27 to 32, 34, and 58 *supra*, in view of Rodgers (WO 01/26871), cited in the International Search Report (ISR) mailed 29 December 2004, in the IDS filed 31 August 2006, in the Written Opinion of the International Searching Authority (WOISA) issued 04 September 2006, and in the International Preliminary Report on Patentability (IPRP) issued 05 September 2006.

15. Regarding claims 17 to 19, Smith *et al.* do not teach an outer layer providing an exterior surface of the drum. Rodgers teaches concrete mixing drum with an outer layer. The outer layer can be plastic (*i.e.*, non-metallic) and can include fiberglass (Rodgers at page 6).

16. It would be *prima facie* obvious for one of ordinary skill in the art to combine the teachings of Smith *et al.* and Rodgers because Rodgers teaches that weight of a plastic concrete mixing drum, when full, is lighter than an equivalently sized steel drum (Rodgers at page 7).

17. Regarding claims 20 and 25, Rodgers teaches multiple fiberglass layers using a winding arrangement (Rodgers at pages 15-17).

18. Regarding claims 21 to 24, the thickness of the layers and the smoothness of the ground surface are deemed to be merely design choices and well within the abilities of one of ordinary skill in the art without undue experimentation.

19. Regarding claim 26, a standard steel concrete mixing drum, such as the one in Smith *et al.*, has an outer layer that is metallic.

Conclusion

No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GAUTAM PRAKASH whose telephone number is 571-270-3030. The examiner can normally be reached on Monday, Tuesday, Thursday, and Friday from 8:30 am to 7:00 pm, Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Marcheschi can be reached on 571-272-1374. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, go to <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, please contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, please call 800-786-9199 (in USA or CANADA) or 571-272-1000.

/G.P./
Examiner, Art Unit 1775

/Nathan A Bowers/
Primary Examiner, Art Unit 1775